



U.S. Department of
Transportation
Office of the Secretary
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.
Washington, D.C. 20590

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APR 25 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 25, 2001

Ms. Magalie R. Salas
Secretary, Federal Communications Commission
The Portals
445 12th Street, S.W. TW-A325
Washington, D.C. 20554

Re: CTIA Petition for Rulemaking
WT Docket No. 01-72

Dear Ms. Salas:

It has come to my attention that the Reply Comments of the U.S. Department of Transportation filed yesterday in the above-referenced proceeding did not contain the attachment noted in the document. I apologize for this error, and enclose herewith eight copies of the attachment.

Thank you for your assistance in this matter. Please contact me if you have any questions

Sincerely,

Paul Samuel Smith
Senior Trial Attorney
(202) 366-9280

Enclosures

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ATTACHMENT



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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

INTELLIGENT TRANSPORTATION SOCIETY OF AMERICA

400 Virginia Ave., S.W., Suite 800
Washington, D.C. 20024-2730
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ITS America's
Intelligent Transportation Systems
Fair Information and Privacy Principles

These fair information and privacy principles were prepared in recognition of the importance of upholding individual privacy in implementing Intelligent Transportation Systems (ITS). The principles represent values and are designed to be flexible and durable to accommodate a broad scope of technological, social and cultural change. ITS America may, however, need to revisit them periodically to assure their applicability and effectiveness.

These principles are advisory, intended to educate and guide transportation professionals, policy makers, companies, organizations, and the public as they develop fair information and privacy guidelines for specific intelligent transportation projects. Initiators of ITS projects are urged to publish the fair information and privacy principles that they intend to follow. Parties to ITS are urged to include enforceable provisions for safeguarding privacy in their contracts and agreements.

1. **INDIVIDUAL CENTERED.** Intelligent Transportation Systems must recognize and respect the individual's interests in privacy and information use.

ITS Systems create value for both individuals and society as a whole. Central to the ITS vision is the creation of ITS Systems that will fulfill our national goals. The primacy focus of information use is to improve travelers' safety and security, reduce travel times, enhance individuals' ability to deal with highway disruptions and improve air quality. Travel information is collected from many sources, some from the infrastructure and some from vehicles, while other information may come from the transactions -- such as electronic toll collection -- that involve interaction between the infrastructure and vehicle. That information may have value in both ITS and non-ITS applications. The individual's interest in privacy must be respected. This requires disclosure and the opportunity for individuals to express choice if personal identification is collected.

2. **VISIBLE.** Intelligent Transportation Information Systems will be built in a manner "visible" to individuals.

ITS may create data on individuals. Individuals should have a means of discovering how the data flows operate. "Visible" means to disclose to the public the type of data collected, how it is collected, what its uses are, and how it will be distributed. The concept of visibility is one of central concern to the public, and, consequently, this principle requires assigning responsibility for disclosure.

3. **COMPLY.** Intelligent Transportation Systems will comply with applicable state and federal laws governing privacy and information use.

Privacy law is a patchwork of federal and state statutes, as well as federal and state judicial opinions. The

“right” to privacy as a matter of law in the context of transportation on public roads and other facilities is limited. Intelligent Transportation Systems should provide, at a minimum, privacy protections in conformity with the law of respective jurisdictions.

4. SECURE. Intelligent Transportation Systems will be secure.

ITS databases may contain information on where travelers go, the routes they use, and when they travel, and therefore must be secure. All ITS information systems will make use of data security technology and audit procedures appropriate to the sensitivity of the information. ITS systems should use technological and administrative safeguards to assure that access to personally identifiable information is restricted to duly authorized individuals.

5. LAW ENFORCEMENT. Intelligent Transportation Systems have an appropriate role in enhancing travelers' safety and security interests, but absent consent, statutory authority, appropriate legal process, or emergency circumstances as defined by law, information identifying individuals will not be disclosed to law enforcement.

ITS has the potential to make it possible for traffic management agencies to know where individuals travel, what routes they take, and travel duration. Therefore, ITS can increase the efficiency of traffic law enforcement by providing aggregate information necessary to target resources. States may legislate conditions under which ITS information will be made available to law enforcement agencies. Absent government authority, however, ITS systems should not be used as a surveillance means for enforcing traffic laws, nor used as a tool of criminal investigation. Although individuals are concerned about public safety, persons who voluntarily participate in ITS programs or purchase ITS products should be informed of how information they are providing is used.

6. RELEVANT. Intelligent Transportation Systems will only collect personal information that is relevant for ITS purposes.

ITS, respectful of the individual's interest in privacy, will only collect information that contain individual identifiers that are needed for the ITS service functions. Furthermore, ITS information systems will include protocols that call for the purging of individual identifier information that is no longer needed to meet ITS needs.

7. ANONYMITY. Where practicable, individuals should have the ability to utilize Intelligent Transportation Systems on an anonymous basis.

Certain ITS applications (commercial vehicle operations or "mayday") require personally identifiable information to function. Others (such as automated fee payment) may be designed to enable use by individuals without identifying themselves (through anonymous debit accounts) or with identifiers for convenience (credit cards). Unless provision of identifiers is required by the ITS application, users should be provided with the opportunity to choose anonymity.

8. COMMERCIAL OR OTHER SECONDARY USE. Intelligent Transportation Systems information stripped of personal identifiers may be used for non-ITS applications.

American consumers want information used to create economic choice and value, but also want their interest in privacy preserved. ITS information is predictive of goods and services that interest consumers, for example, the right location for stores, hospitals and other facilities. However, personally identifiable

information collected by ITS surveillance technologies is extremely sensitive. Therefore, the following practices should be followed:

- ITS information absent personal identifiers may be used for ITS and other purposes.
- Generally, data collectors should assure that ITS information provided to private organizations for secondary uses is stripped of personal identifiers.
- Individuals, however, may contract to allow use of personal identifiers for secondary use if full disclosure in the intended use is made and informed consent obtained.

9. **FOIA. Federal and State Freedom of Information Act (FOIA) obligations require disclosure of information from government maintained databases. Database arrangements should balance the individual's interest in privacy and the public's right to know.**

In determining whether to disclose ITS information, governments should, where possible, balance the individual's right to privacy against the preservation of the basic purpose of the Freedom of Information laws to open agency action to public scrutiny. ITS travelers should be presumed to have reasonable expectations of privacy for personal identifying information. Pursuant to the individual's interest in privacy, the public/private framework of organizations collecting data should be structured to resolve problems of access created by FOIA.

10. **OVERSIGHT. Jurisdictions and companies deploying and operating Intelligent Transportation Systems should have an oversight mechanism to ensure that such deployment and operation complies with their Fair Information and Privacy Principles.**

Governments and companies should implement proper procedures to ensure that they protect the individual user's right to privacy, at a minimum, to the extent outlined in these principles. This mechanism may include internal directives, the appointment of a privacy officer, and/or penalties for violations. Governments and companies should have the flexibility to tailor such a system to their respective needs or circumstances.



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Sincerely,

A handwritten signature in cursive script, reading "Paul Samuel Smith".

Paul Samuel Smith
Senior Trial Attorney
(202) 366-9280

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